

CALENDAR ITEM

C63

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PRC 4007.9

L. Pino

GENERAL LEASE – PUBLIC AGENCY USE

APPLICANT:

Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708

PROPOSED LEASE:

AREA, LAND TYPE, AND LOCATION:

Sovereign land in the Pacific Ocean, near the mouth of the Santa Ana River, city of Huntington Beach, Orange County.

AUTHORIZED USE:

Right-of-way for the continued operation and maintenance of an existing 120-inch-diameter ocean outfall.

LEASE TERM:

25 years, beginning August 28, 2017.

CONSIDERATION:

The public health and safety; with the State reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

SPECIFIC LEASE PROVISIONS:

Lessee shall routinely perform both internal and external inspections of the ocean outfall and provide Commission staff with reports regarding its integrity and repair.

STAFF ANALYSIS AND RECOMMENDATION:

Authority:

Public Resources Code sections 6005, 6216, 6301, 6501.1, and 6503.5;
California Code of Regulations, title 2, section 2000, subdivision (b).

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Public Trust and State's Best Interests Analysis:

On August 28, 1968, the Commission authorized a 49-year Public Agency Permit – Right-of-Way (Permit), to the Orange County Sanitation District (District), beginning August 28, 1968, for the construction, operation, and maintenance of a 120-inch-diameter ocean outfall in the Pacific Ocean, near the mouth of the Santa Ana River and in the city of Huntington Beach, Orange County ([Calendar Item 49, August 28, 1968](#)). That Permit will expire on August 27, 2017. The District is now applying for a General Lease – Public Agency Use.

The District is the sewer provider for the central and northern portion of Orange County and serves a population of approximately 2.6 million people. Part of the District's system includes two ocean outfalls, an 84-inch-diameter ocean outfall and a 120-inch-diameter ocean outfall. These outfalls release treated wastewater into the ocean on a daily basis. Only the 120-inch-diameter outfall (Outfall) is within the Commission's leasing jurisdiction.

The Outfall was constructed in the late 1960s and began operating in the 1970s. The Outfall is part of a larger sewage water treatment system that begins at the District's Treatment Plant No. 2, located in Huntington Beach. The portion of the Outfall on land extends 1,930 feet south from the Treatment Plant to Huntington State Beach, which contains the Ocean Outfall Beach Box. The Outfall runs underground from the Beach Box through the surf zone out to sea. The portion of pipe extending from the Beach Box is 5.2 miles long with a 1-mile long diffuser that begins approximately 4 miles beyond the shore line. Treated effluent is carried through the Outfall and released through portholes, from 3 to 4 inches in diameter, in the diffuser section in accordance with National Pollutant Discharge Elimination System Permit No. CA0110604, Order No. R8-2012-0035. The U.S. Environmental Protection Agency, Region 9 and the Santa Ana Regional Water Quality Control Board (RWQCB) adopted the permit on June 15, 2012, and it became effective July 20, 2012.

The Commission's jurisdiction covers only the portion of the Outfall pipe that runs from the ordinary high water mark to 3 miles out to the State's offshore boundary. The Commission's jurisdiction does not include the approximately 1-mile long diffuser section of the Outfall that is located in federal waters beyond the State's offshore boundary, or the upland property that houses the Beach Box. Accordingly, the current general permit provides only for a right-of-way through State lands, and does not address the effluent released outside of State property. Based on communications with the RWQCB's staff it is Commission staff's

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understanding that RWQCB does monitor the released treated effluent to ensure compliance with the permit, and that the treated effluent released through the Outfall does not have any known negative impact on Public Trust resources. Further, the Outfall does not interfere with or limit Public Trust uses of the property such as recreation, fishing, navigation, and commerce.

The lease is limited to a 25-year term and does not grant the lessee exclusive rights to the lease premises. Upon termination of the lease, the lessee may be required to remove all improvements from State land. The proposed lease requires the lessee to indemnify the State for any liability incurred as a result of the lessee's activities thereon.

Climate Change:

The lease area consists of sovereign land located in the Pacific Ocean near Huntington Beach, Orange County. The area's location is just to the north of the mouth of the Santa Ana River which is located in an urbanized area of Huntington Beach. The existing ocean outfall extends 5 miles from the District Treatment Plant Number 2 to an area beneath the Pacific Ocean, between Huntington Beach and Newport Beach. The outfall is an existing facility owned, operated and, maintained by Orange County.

At this time, the discharge pipe and associated structures along the outfall components are unlikely to be damaged during storm events or affect Public Trust resources. However, the adjacent to public beach, may be vulnerable to sea-level rise. The region is projected to experience up to 2 feet of sea-level rise by 2050 (National Research Council 2012). Additional climate change impacts such as more frequent and stronger winter storm and flooding events may contribute to increased vulnerability throughout the lease area. These cumulative impacts could result in accelerated rates of erosion and beach loss. Over the next 30 years, sea levels will continue to rise and storm impacts are likely to increase, potentially increasing the risk to Public Trust resources and values located within and around the lease area, including recreational values associated with the beach, public parking lots, and public restrooms. The combination of increased wave action, storm activity, sea-level rise, and beach scour could result in damage or degradation to the District Beach Box located north of the Santa Ana River channel. Further maintenance of the Santa Ana River channel rip rap may become necessary in the future if the Beach Box condition requires additional fortification and support.

The site may be subject to hazards from natural geophysical phenomena including, but not limited to, waves, storm waves, erosion, flooding, and

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sea-level rise (“climate change effects”). The risks posed to the site from these discrete processes, and the combined, additive impacts of multiple processes are anticipated to increase in severity over the term of the lease due to the localized effects of climate change. Specifically, climate change effects could expose the lease area to stronger and prolonged flooding events, requiring maintenance and repair beyond what is regularly needed. Adverse impacts from climate change effects on the lease area could result in degradation of Public Trust resources and values, including water quality, wetland habitat, and public safety. Future conditions may necessitate additional adaptation measures to increase the resiliency of the lease area to the impacts of sea-level rise and coastal climate change processes.

Conclusion:

For all the reasons above, Commission staff believes the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location at this time and for the foreseeable term of the proposed lease, and is in the best interests of the State.

OTHER PERTINENT INFORMATION:

1. This action is consistent with Strategy 1.1 of the Commission’s Strategic Plan to deliver the highest levels of public health and safety in the protection, preservation, and responsible economic use of the lands and resources under the Commission’s jurisdiction.
2. Staff recommends that the Commission find that this activity is exempt from the requirements of the California Environmental Quality Act (CEQA) as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

Authority: Public Resources Code section 21084 and California Code of Regulations, title 14, section 15300.

3. This activity involves lands identified as possessing significant environmental values pursuant to Public Resource Code section 6370 et seq., but such activity will not affect those significant lands. Based upon staff’s consultation with the person nominating such lands and through the CEQA review process, it is staff’s opinion that the project, as proposed, is consistent with its use classification.

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APPROVALS OBTAINED:

U.S. Environmental Protection Agency, Region 9 Santa Ana Regional Water
Quality Control Board – NPDES Permit No. CA0110604

EXHIBITS:

- A. Land Description
- B. Site and Location Map

RECOMMENDED ACTION:

It is recommended that the Commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to California Code of Regulations, title 14, section 15061 as a categorically exempt project, Class 1, Existing Facilities; California Code of Regulations, title 14, section 15301.

PUBLIC TRUST AND STATE'S BEST INTEREST:

Find that the issuance of this lease is consistent with the common law Public Trust Doctrine, will not substantially interfere with Public Trust needs at this location at this time and for the foreseeable term of the proposed lease, and is in the best interests of the State.

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code section 6370 et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Public Agency Use, to the Orange County Sanitation District, beginning August 28, 2017, for a term of 25 years, for the continued use and maintenance of an existing 120-inch-diameter ocean outfall, as described in Exhibit A and shown on Exhibit B (for reference purposes only) attached and by this reference made a part hereof; Consideration being the public health and safety; with the state reserving the right at any time to set a monetary rent if the Commission finds such action to be in the State's best interest.

EXHIBIT A

PRC 4007.9

LAND DESCRIPTION

A 100-foot wide right of way easement in the City of Huntington Beach, County of Los Angeles, State of California, said easement beginning at the ordinary high water mark along the California mainland and lying 50 feet on each side of the following described centerline:

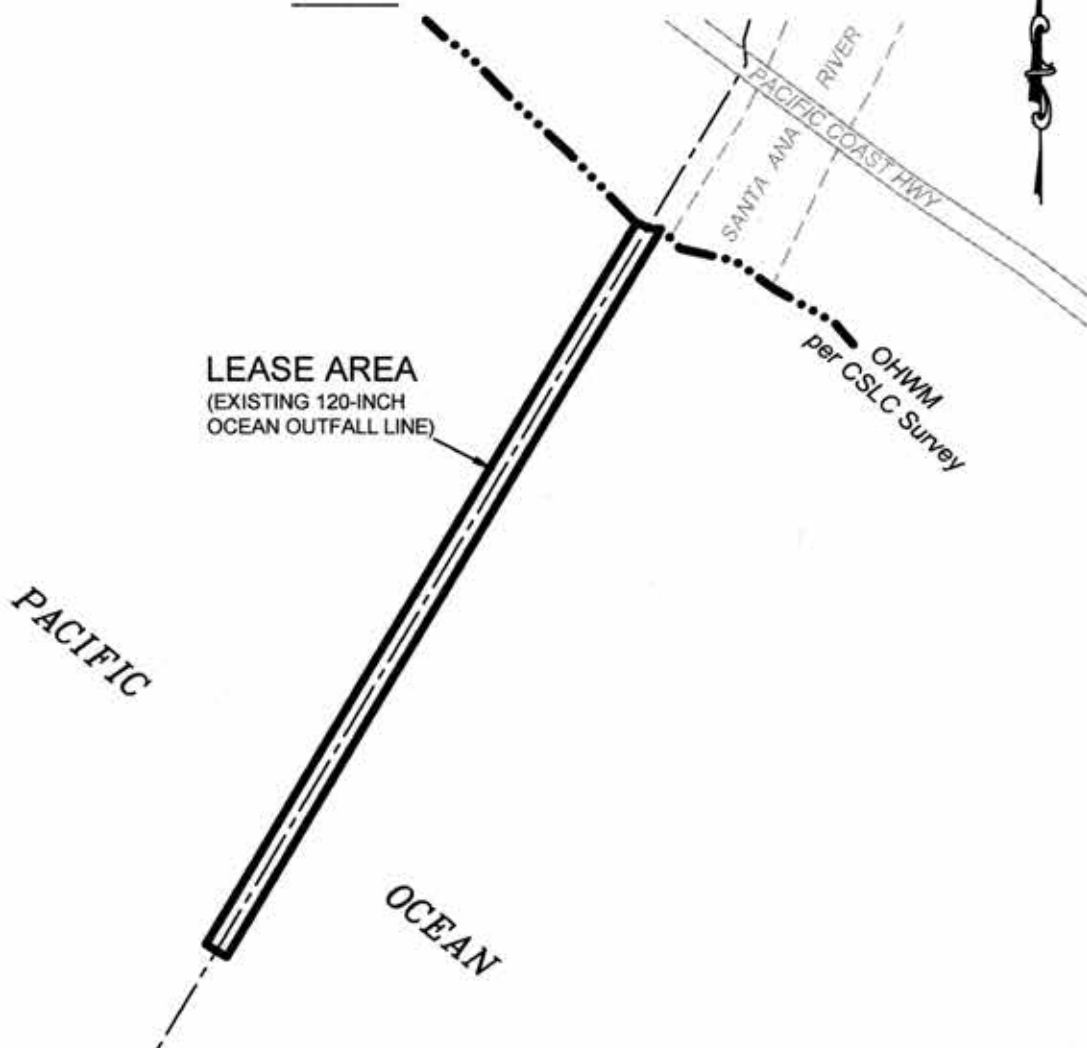
Commencing at corner LB 68 on the Easterly line of the Rancho Las Bolsas in the Fractional Section 19, Range 10 West, Township 6 South, San Bernardino Base and Meridian, thence S 16° 37' 24" W 428.3 feet along said Rancho line to an axle (California Lambert Zone 6 Coordinate N 537,342.48; E 1,480,339.56); thence S 5° 50' 44" E 95.53 feet to a 1-inch by 2-inch stake (California Lambert Zone 6 Coordinate N 537,247.49; E 1,480,349.31); thence S 31° 06' 44" W 420.31 feet to a crosscut on the top slab of the Junction Box (California Lambert Zone 6 Coordinate N 536,887.64; E 1,480,132.13); thence S 34° 46' 42" W 6.40 feet to the southeasterly face of the Junction Box (California Lambert Zone 6 Coordinate N 536,882.38; E 1,480,128.48); thence S 30° 56' 21" W to the ordinary high water mark and the True Point of Beginning; thence S 30° 56' 21" W to the ownership boundary of the State of California (as determined according to the decree entered by the United States Supreme Court in United States v. California Original No. 5 on January 31, 1966).

END OF DESCRIPTION

The above description is a duplicate of that original description prepared by CSLC on August 1968 as found in PRC 4007 file, Calendar Item 49.

NO SCALE

SITE



PACIFIC OCEAN NEAR THE MOUTH OF THE SANTA ANA RIVER

NO SCALE

LOCATION



MAP SOURCE: USGS QUAD

This Exhibit is solely for purposes of generally defining the lease premises, is based on unverified information provided by the Lessee or other parties and is not intended to be, nor shall it be construed as, a waiver or limitation of any State interest in the subject or any other property.

Exhibit B

PRC 4007.9

ORANGE COUNTY
SANITATION DISTRICT
GENERAL LEASE -
PUBLIC AGENCY USE
ORANGE COUNTY

